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7 Mark Viniello and Over Active Imaginations, Inc.

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 MARK VINIELLO AND OVER ACTIVE
11 IMAGINATIONS, INC.

12 Plaintiffs,

13 v.

14 CATALONIA FASHION AND LIDERSTAR

15
16 Defendants.
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Case No:

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

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1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Mark Viniello (“Plaintiff” or “Viniello”), for its complaint against Defendant
3 CATALONIA FASHION (“Defendant” or “Catalonia Fashion”) and Defendant Liderstar
4 (“Defendant” or Liderstar) (collectively “Defendants”), hereby demands a jury trial and alleges as
5 follows:

6 **NATURE OF ACTION**

7 1. This is an action for patent infringement of United States Design Patent Nos. D743,669
8 (“the ‘669 Patent”), D751,792 (“the ‘792 Patent”) and D792,055 (“the ‘055 Patent”) (collectively the
9 “Asserted Patents”), arising under the patent laws of the United States of America, Title 35 of the
10 United States Code, and seeking damages and other relief under 35 U.S.C. § 271, *et seq.*

11 **PARTIES**

12 2. Plaintiff Mark Viniello is an individual and resident of California.

13 3. Plaintiff Over Active Imaginations, Inc. is a corporation organized and existing under
14 the laws of the state of California, with its principal place of business at 22409 Georgia Lane,
15 Santa Clarita, CA 91350.

16 4. Plaintiff Mark Viniello is the owner of the ‘669 patent and the ‘792 patent.

17 5. The inventors of the ‘055 Patent, Mark Viniello and Tristy Anne Viniello, assigned
18 ownership of the ‘055 Patent to Over Active Imaginations, Inc. on October 29, 2015. The
19 signed assignment contract is attached as Exhibit 1 and is available at [https://legacy-](https://legacy-assignments.uspto.gov/assignments/assignment-pat-36927-650.pdf)
20 [assignments.uspto.gov/assignments/assignment-pat-36927-650.pdf](https://legacy-assignments.uspto.gov/assignments/assignment-pat-36927-650.pdf).

21 6. Defendant Catalonia Fashion is a corporation organized and existing under unknown
22 laws, with its principal place of business at 17145 Margay Ave Carson, California US 90746. A
23 screenshot from <https://cataloniastore.com/pages/returns-exchanges> is attached as Exhibit 2 showing
24 this address on page 3 as Defendant’s place of business in California.

25 7. On information and belief, a search through various state entity databases indicates that
26 Catalonia Fashion is not incorporated in the United States.

27 8. Defendant Liderstar is a corporation organized and existing under unknown laws, with
28 its principal place of business also unknown.

1 19. Venue is proper over Defendant because Defendant resides in this district, because
2 Defendant's principal place of business is located in this district, at 17145 Margay
3 Ave Carson, California US 90746, CA 94109. See 28 U.S.C. § 1400(b).

4 20. The Accused Products are products sold at
5 <https://cataloniastore.com/collections/mermaid-blankets>, products sold at Catalonia Fashion's
6 Amazon store at [https://www.amazon.com/stores/page/26D1ADD2-92BA-4A21-877C-
7 EE49030F59AF?ingress=2&visitId=f111b6b4-5964-4565-ade7-22a107372fec&ref_=ast_bln](https://www.amazon.com/stores/page/26D1ADD2-92BA-4A21-877C-EE49030F59AF?ingress=2&visitId=f111b6b4-5964-4565-ade7-22a107372fec&ref_=ast_bln),
8 products sold at <https://liderstar-store.com/products/glow-in-the-dark-tail-mermaid-blanket> and
9 products sold at Liderstar's Amazon store at [https://www.amazon.com/LIDERSTAR-Fishtail-
10 Positive-Christmas-Birthday/dp/B07SD5KGV?ref_=ast_sto_dp&th=1](https://www.amazon.com/LIDERSTAR-Fishtail-Positive-Christmas-Birthday/dp/B07SD5KGV?ref_=ast_sto_dp&th=1) (collectively "the Accused
11 Products").

12 21. Venue is also proper over Defendant because: (i) on information and belief, Defendant
13 has committed direct infringement in this district, including by selling the Accused Products in
14 connection with its provision of services to customers in this district.

15 22. Thus, venue is proper over Defendant under 28 U.S.C. § 1400(b), because Defendant
16 resides in this district, has committed acts of infringement in this district, and has regular and
17 established places of business in this district.

18 **INTRADISTRICT ASSIGNMENT**

19 23. This case is a patent infringement dispute that is appropriate for district-wide
20 assignment. Assignment to the Western Division is appropriate because a substantial part of the
21 events that gave rise to the claims asserted in this Complaint occurred in Los Angeles County.
22

23 **THE ASSERTED PATENTS**

24 24. Mark Viniello is the sole named inventor of the '669 patent and the '792 patent.

25 25. On February 25, 2013, Mark Viniello filed with the United States Patent and Trademark
26 Office ("USPTO") Patent Application no. 29/446,520 (the '520 application) directed to his
27 inventions. On November 24, 2015, the USPTO issued the '669 patent from the '520
28 application.

1 26. The '669 patent is valid and enforceable. The '669 patent claims patent-eligible matter.

2 27. Catalonia Fashion had actual knowledge of the '669 patent at least as of November 14,
3 2023 when an email regarding this patent was sent to help@cataloniastore.com.

4 28. A copy of this November 14, 2023 email is attached as Exhibit 6 to this Complaint.

5 29. Liderstar has actual knowledge of the '669 patent at least as of November 1, 2023 when
6 a message regarding this patent was sent to Raul Camacho, who might be a manager for
7 Liderstar, based on his LinkedIn profile, attached as Exhibit 7 to this Complaint. An email was
8 not sent because no email address for Liderstar could be located.

9 30. A copy of this November 1, 2023 message is attached as Exhibit 8 to this Complaint.

10 31. Another message regarding the '669 patent was sent to Mario Grenno, who might be a
11 director of Liderstar, based on his LinkedIn profile, attached as Exhibit 9 to this Complaint.

12 32. A copy of this November 1, 2023 message is attached as Exhibit 10 to this Complaint.

13 33. The entire right, title, and interest in and to the '669 patent, including all rights to past
14 damages, is assigned to Mark Viniello. No assignment needs to be recorded with the USPTO,
15 because without an assignment, title rests with the inventor.

16 34. Mark Viniello is the sole named inventor of the '792 patent.

17 35. On March 25, 2015, Mark Viniello filed with the United States Patent and Trademark
18 Office ("USPTO") Patent Application no. 29/521,696 (the '696 application) directed to his
19 inventions. On March 22, 2016, the USPTO issued the '792 patent from the '696 application.

20 36. The '792 patent is valid and enforceable. The '792 patent claims patent-eligible matter.

21 37. Catalonia Fashion had actual knowledge of the '792 patent at least as of November 14,
22 2023 when an email regarding this patent was sent to help@cataloniastore.com.

23 38. A copy of this November 14, 2023 email is attached as Exhibit 6 to this Complaint.

24 39. Liderstar has actual knowledge of the '792 patent at least as of November 1, 2023 when
25 a message regarding this patent was sent to Raul Camacho, who might be a manager for
26 Liderstar, based on his LinkedIn profile, attached as Exhibit 7 to this Complaint. An email was
27 not sent because no email address for Liderstar could be located.

28 40. A copy of this November 1, 2023 message is attached as Exhibit 8 to this Complaint.

1 41. Another message regarding the '792 patent was sent to Mario Grenno, who might be a
2 director of Liderstar, based on his LinkedIn profile, attached as Exhibit 9 to this Complaint.

3 42. A copy of this November 1, 2023 message is attached as Exhibit 10 to this Complaint.

4 43. The entire right, title, and interest in and to the '792 patent, including all rights to past
5 damages, is assigned to Mark Viniello. No assignment needs to be recorded with the USPTO,
6 because without an assignment, title rests with the inventor.

7 44. Mark Viniello along with his wife Tristy Anne Viniello are the co-inventors of the '055
8 patent.

9 45. On October 30, 2015, Mark Viniello and Tristy Anne Viniello filed with the United
10 States Patent and Trademark Office ("USPTO") Patent Application no. 29/544,162 (the '162
11 application) directed to his inventions. On July 18, 2017, the USPTO issued the '055 patent
12 from the '162 application.

13 46. The '055 patent is valid and enforceable. The '055 patent claims patent-eligible matter.

14 47. Catalonia Fashion had actual knowledge of the '055 patent at least as of November 14,
15 2023 when an email regarding this patent was sent to help@cataloniastore.com.

16 48. A copy of this November 14, 2023 email is attached as Exhibit 6 to this Complaint.

17 49. Liderstar has actual knowledge of the '055 patent at least as of November 1, 2023 when
18 a message regarding this patent was sent to Raul Camacho, who might be a manager for
19 Liderstar, based on his LinkedIn profile, attached as Exhibit 7 to this Complaint. An email was
20 not sent because no email address for Liderstar could be located.

21 50. A copy of this November 1, 2023 message is attached as Exhibit 8 to this Complaint.

22 51. Another message regarding the '055 patent was sent to Mario Grenno, who might be a
23 director of Liderstar, based on his LinkedIn profile, attached as Exhibit 9 to this Complaint.

24 52. A copy of this November 1, 2023 message is attached as Exhibit 10 to this Complaint.

25 53. The entire right, title, and interest in and to the '055 patent, including all rights to past
26 damages, is assigned to Over Active Imaginations, Inc. on October 29, 2015. The signed
27 assignment contract is attached as Exhibit 1 and was found at [https://legacy-](https://legacy-assignments.uspto.gov/assignments/assignment-pat-36927-650.pdf)
28 [assignments.uspto.gov/assignments/assignment-pat-36927-650.pdf](https://legacy-assignments.uspto.gov/assignments/assignment-pat-36927-650.pdf).

DEFENDANT'S INFRINGING USE

54. On information and belief, Defendant Catalonia Fashion and/or their affiliates, have directly infringed claim 1 of the '669 Patent, the '792 Patent, and the '055 Patent, by making, using, selling and offering to sell, and by inducing and contributing to others' infringement through their sales, offers for sale, and use of a "Mermaid shaped sleeping bag", and other products depicted on Defendant's websites and sold on third party websites within the United States, all without authorization or license from Plaintiff within the United States, less than six years before the filing of this Complaint, and prior to the November 24, 2029 expiration date of the '669 Patent, the March 22, 2030 expiration date of the '792 Patent, and the July 18, 2032 expiration date of the '055 Patent (the "Relevant Time Period").

55. One example of Catalonia Fashion's sale of infringing products is the "Mermaid shaped sleeping bag" on <https://cataloniastore.com/collections/mermaid-blankets>. A screenshot of this website providing exemplary evidence of infringement of the Asserted Patents is attached to this Complaint as Exhibit 11 to this Complaint.

56. Another example of Catalonia Fashion's sale of infringing products is the Mermaid tail blankets on its Amazon store at https://www.amazon.com/stores/page/26D1ADD2-92BA-4A21-877C-EE49030F59AF?ingress=2&visitId=f11b6b4-5964-4565-ade7-22a107372fec&ref_=ast_bln. A screenshot of this website providing exemplary evidence of infringement of the Asserted Patents is attached to this Complaint as Exhibit 12 to this Complaint.

57. On November 11, 2023, Amazon was informed of the infringement of the Asserted Patents by Catalonia Fashion through Amazon's reporting tool at <https://www.amazon.com/report/infringement>. These reports are attached to this Complaint as Exhibits 13-15. However, the reports did not result in Amazon removing any Accused Products.

1 58. There are potentially other infringing products being sold by Catalonia Fashion, which
2 may be uncovered in discovery. Plaintiff reserves the right to amend this Complaint to name
3 such infringing products, if necessary, once they have been revealed.

4 59. On information and belief, Defendant Liderstar and/or their affiliates, have directly
5 infringed claim 1 of the '669 Patent, the '792 Patent, and the '055 Patent, by making, using,
6 selling and offering to sell, and by inducing and contributing to others' infringement through
7 their sales, offers for sale, and use of a "Glow in the dark Mermaid tail blanket", and other
8 products depicted on Defendant's websites and sold on third party websites within the United
9 States, all without authorization or license from Plaintiff within the United States, less than six
10 years before the filing of this Complaint, and prior to the "Relevant Time Period."

11 60. One example of Liderstar's sale of infringing products is the "Glow in the dark
12 Mermaid tail blanket" on [https://liderstar-store.com/products/glow-in-the-dark-tail-mermaid-](https://liderstar-store.com/products/glow-in-the-dark-tail-mermaid-blanket)
13 [blanket](https://liderstar-store.com/products/glow-in-the-dark-tail-mermaid-blanket). A screenshot of this website providing exemplary evidence of infringement of the
14 Asserted Patents is attached to this Complaint as Exhibit 16 to this Complaint.

15 61. Another example of Liderstar's sale of infringing products is the Mermaid tail blankets
16 on its Amazon store at [https://www.amazon.com/LIDERSTAR-Fishtail-Positive-Christmas-](https://www.amazon.com/LIDERSTAR-Fishtail-Positive-Christmas-Birthday/dp/B07SD5KGV?ref=ast_sto_dp&th=1)
17 [Birthday/dp/B07SD5KGV?ref=ast_sto_dp&th=1](https://www.amazon.com/LIDERSTAR-Fishtail-Positive-Christmas-Birthday/dp/B07SD5KGV?ref=ast_sto_dp&th=1). A screenshot of this website providing
18 exemplary evidence of infringement of the Asserted Patents is attached to this Complaint as
19 Exhibit 17 to this Complaint.

20 62. On November 11, 2023, Amazon was informed of the infringement of the Asserted
21 Patents by Liderstar through Amazon's reporting tool at
22 <https://www.amazon.com/report/infringement>. These reports are attached to this Complaint as
23 Exhibits 18-20. However, the reports did not result in Amazon removing any Accused
24 Products.

25 63. There are potentially other infringing products being sold by Liderstar, which may be
26 uncovered in discovery. Plaintiff reserves the right to amend this Complaint to name such
27 infringing products, if necessary, once they have been revealed.
28

FIRST CLAIM FOR RELIEF

(Infringement of the '669 Patent)

64. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-47 above as if fully set forth herein and further alleges:

65. Defendants have committed, and is continuing to commit, direct infringement of the claim of the '669 patent, in violation of 35 U.S.C. § 271(a), by selling products that are described by the claim in the U.S., during the Relevant Time Period. Defendants' acts of infringement include direct infringement and infringement under the Doctrine of Equivalents.

66. Defendants have infringed and continue to infringe the claim of the '669 Patent by making, using, selling and offering to sell, and by inducing and contributing to others' infringement through their sales, offers for sale, and use of the Accused Products, all without authorization or license from Plaintiff.

67. Defendants have continued their infringement despite having notice of the '669 Patent. Defendants have committed and is committing willful and deliberate patent infringement. On information and belief Plaintiff alleges Defendants' acts of willful and deliberate infringement will continue after service of this Complaint, rendering this case appropriate for treble damages under 35 U.S.C. §284 and making this an exceptional case under 35 U.S.C. §285.

68. Defendants have indirectly infringed and continues to infringe the '669 patent by inducement under 35 U.S.C. 271(b). Defendants have induced and continues to induce users and retailers of the Accused Products to directly infringe the '669 patent.

69. Upon information and belief, Defendants knowingly induced customers to use their Accused Products, including, for example, by promoting such products online.

70. On information and belief, Defendants have contributed to the infringement of the '669 patent by the use and/or importation of the Accused Products in violation of 35 U.S.C. § 271(c). The Accused Products are not a staple article or commodity of commerce suitable for substantial noninfringing use.

71. Plaintiff is informed and believes, and on that basis alleges, that Defendants have gained profits by virtue of their infringement of the '669 Patent.

1 72. Defendants' acts of infringement are and have been without Plaintiff's permission,
2 consent, authorization or license. Defendants' acts of infringement have caused and continue
3 to cause damage to Plaintiff. Plaintiff is entitled to recover from Defendants the damages
4 sustained by Plaintiff as a result of Defendants' wrongful acts, together with interest and costs
5 as fixed by this Court under 35 U.S.C. §284.

6 73. As a direct and proximate result of Defendants' infringement of the '669 Patent,
7 Plaintiff has, and will suffer, monetary damages and irreparable injury. Plaintiff's monetary
8 damages include, without limitation, lost profits, or at a minimum, the right to recover a
9 reasonable royalty. Furthermore, unless Defendants are enjoined by this Court from continuing
10 its infringement of the '669 Patent, Plaintiff has, and will suffer, additional irreparable damages
11 and impairment of the value of its patent rights. Thus, an injunction against further
12 infringement is appropriate.

13
14 **SECOND CLAIM FOR RELIEF**

15 **(Infringement of the '792 Patent)**

16 74. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-57
17 above as if fully set forth herein and further alleges:

18 75. Defendants have committed direct infringement of each claim of the '792 patent, in
19 violation of 35 U.S.C. § 271(a), by performing all the steps of each claim in the U.S., during
20 the Relevant Time Period.

21 76. Defendants have infringed and continue to infringe one or more of the claims of the
22 '792 Patent by making, using, selling and offering to sell, and by inducing and contributing to
23 others' infringement through their sales, offers for sale, and use of the Accused Products, all
24 without authorization or license from Plaintiff.

25 77. On information and belief, Plaintiff alleges Defendants have been, and are currently,
26 infringing the '792 patent in violation of 35 U.S.C. § 271. Defendants' acts of infringement
27 include direct infringement and infringement under the Doctrine of Equivalents.
28

1 78. Defendants have continued their infringement despite having notice of the ‘792 Patent.
2 Defendants have committed and are committing willful and deliberate patent infringement. On
3 information and belief Plaintiff alleges Defendants’ acts of willful and deliberate infringement
4 will continue after service of this Complaint, rendering this case appropriate for treble damages
5 under 35 U.S.C. §284 and making this an exceptional case under 35 U.S.C. §285.

6 79. Defendant has indirectly infringed and continues to infringe the ‘792 patent by
7 inducement under 35 U.S.C. 271(b). Defendant has induced and continues to induce users and
8 retailers of the Accused Products to directly infringe the ‘792 patent.

9 80. Upon information and belief, Defendants knowingly induced customers to use its
10 Accused Products, including, for example, by promoting such products online (e.g.,
11 www.PotteryBarn.com).

12 81. On information and belief, Defendants have contributed to the infringement of the ‘792
13 patent by the use and/or importation of the Accused Products in violation of 35 U.S.C. §
14 271(c). The Accused Products are not a staple article or commodity of commerce suitable for
15 substantial noninfringing use.

16 82. Plaintiff is informed and believes, and on that basis alleges, that Defendants have
17 gained profits by virtue of their infringement of the ‘792 Patent.

18 83. Defendants’ acts of infringement are and have been without Plaintiff’s permission,
19 consent, authorization or license. Defendants’ acts of infringement have caused and continue
20 to cause damage to Plaintiff. Plaintiff is entitled to recover from Defendants the damages
21 sustained by Plaintiff as a result of Defendants’ wrongful acts, together with interest and costs
22 as fixed by this Court under 35 U.S.C. §284.

23 84. As a direct and proximate result of Defendants’ infringement of the ‘792 Patent,
24 Plaintiff has, and will suffer, monetary damages and irreparable injury. Plaintiff’s monetary
25 damages include, without limitation, lost profits, or at a minimum, the right to recover a
26 reasonable royalty. Furthermore, unless Defendants are enjoined by this Court from continuing
27 its infringement of the ‘792 Patent, Plaintiff has, and will suffer, additional irreparable damages
28

1 and impairment of the value of its patent rights. Thus, an injunction against further
2 infringement is appropriate.

3
4 **THIRD CLAIM FOR RELIEF**

5 **(Infringement of the '055 Patent)**

6 85. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-68
7 above as if fully set forth herein and further alleges:

8 86. Defendants have committed direct infringement of each claim of the '055 patent, in
9 violation of 35 U.S.C. § 271(a), by performing all the steps of each claim in the U.S., during
10 the Relevant Time Period.

11 87. Defendants have infringed and continue to infringe one or more of the claims of the
12 '055 Patent by making, using, selling and offering to sell, and by inducing and contributing to
13 others' infringement through their sales, offers for sale, and use of the Accused Products, all
14 without authorization or license from Plaintiff.

15 88. On information and belief, Plaintiff alleges Defendant has been, and is currently,
16 infringing the '055 patent in violation of 35 U.S.C. § 271. Defendant's acts of infringement
17 include direct infringement and infringement under the Doctrine of Equivalents.

18 89. Defendants have continued their infringement despite having notice of the '055 Patent.
19 Defendants have committed and are committing willful and deliberate patent infringement. On
20 information and belief Plaintiff alleges Defendants' acts of willful and deliberate infringement
21 will continue after service of this Complaint, rendering this case appropriate for treble damages
22 under 35 U.S.C. §284 and making this an exceptional case under 35 U.S.C. §285.

23 90. Defendants have indirectly infringed and continues to infringe the '055 patent by
24 inducement under 35 U.S.C. 271(b). Defendants have induced and continue to induce users and
25 retailers of the Accused Products to directly infringe the '055 patent.

26 91. Upon information and belief, Defendants knowingly induced customers to use its
27 Accused Products, including, for example, by promoting such products online.
28

1 92. On information and belief, Defendants have contributed to the infringement of the '055
2 patent by the use and/or importation of the Accused Products in violation of 35 U.S.C. §
3 271(c). The Accused Products are not a staple article or commodity of commerce suitable for
4 substantial noninfringing use.

5 93. Plaintiff is informed and believes, and on that basis alleges, that Defendants have
6 gained profits by virtue of their infringement of the '055 Patent.

7 94. Defendants' acts of infringement are and have been without Plaintiff's permission,
8 consent, authorization or license. Defendants' acts of infringement have caused and continue
9 to cause damage to Plaintiff. Plaintiff is entitled to recover from Defendants the damages
10 sustained by Plaintiff as a result of Defendants' wrongful acts, together with interest and costs
11 as fixed by this Court under 35 U.S.C. §284.

12 95. As a direct and proximate result of Defendants' infringement of the '055 Patent,
13 Plaintiff has, and will suffer, monetary damages and irreparable injury. Plaintiff's monetary
14 damages include, without limitation, lost profits, or at a minimum, the right to recover a
15 reasonable royalty. Furthermore, unless Defendants are enjoined by this Court from continuing
16 its infringement of the '055 Patent, Plaintiff has, and will suffer, additional irreparable damages
17 and impairment of the value of its patent rights. Thus, an injunction against further
18 infringement is appropriate.

19
20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff prays judgment against each Defendant as follows:

- 22 A. That each Defendant has infringed and is infringing the '669 Patent, the '792 patent,
23 and the '055 patent;
- 24 B. That such infringement is willful;
- 25 C. That defendant be ordered to pay Plaintiff damages caused by said Defendant's
26 infringement of the '669 Patent, the '792 patent, and the '055 patent, and that such
27 damages be trebled in accord with 35 U.S.C. § 284, together with interest thereon;
28

- 1 D. That this case be declared exceptional pursuant to 35 U.S.C. § 285 and that Plaintiff be
2 awarded reasonable attorney's fees and costs; and
3 E. That Plaintiff shall have such other and further relief as this Honorable Court may deem
4 just and proper.
5

6 **DEMAND FOR JURY TRIAL**

7 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs Mark Viniello and
8 Over Active Imaginations, Inc., hereby demands a jury trial on *all* of his claims, causes of action and
9 issues that are triable by jury.
10

11 Dated: November 16, 2023

MURTHY PATENT LAW INC.

12
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